

## Constitutional safeguards of Minorities: Issues & Challenges of communalism in India

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### Abstract

India is a secular country. Freedom to follow the religion of one's choice, according to the Indian constitution, is a fundamental right. In fact, the constitution of India not only provides everyone the right to practice one's own religion but also gives right to preach, practice and propagate one's religion. It is a matter of fact that in spite of believing in secularism and upholding democratic values, communalism becomes most indigenous security problem for India. Communalism is basically an ideology of political alliance to a religious community as a primarily and decisive group in the polity, and for political action. Therefore, it foster social grouping on the line of religious, political, caste or class, socio-economic interests and provides identity. It is an attempt to maximize its economic, social and political interest for a particular religious community at the expense of the other community.

In this perspective, present study explores the impact of communalism which creates, feeling of insecurity and anxiety among the minority communities. When the interests of a particular community are threatened, it leads to communal conflicts. Hence, communalism is a political strategy, opposed to nationalism. Politics of communalism is the major threat posed towards the integrity of nation. So, efficient measures are to be adopted against communalism and its spread in order to check cracks on the social harmony and bondage.

**Keywords:** communalism, secular, political strategy, freedom, nationalism

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In the present day minorities' problem are worldwide. There is no state in the world has free from some kind of minorities issues. Although, the nature of minority problem is not always and everywhere the same. It assumes different forms and intensity in various parts of the world at different times. Since the rise of democracy, the problem of minorities has become a serious political question and has played a great role in national affairs. Solution of this problem is the recognition of equal rights and duties for all, irrespective of religion, race, caste or language. It is only democracy that recognizes different minorities and provides them equal treatment. In fact, the efficiency of democracy lies in giving fair treatment to minorities.

The term 'Minority' has been drive from the Latin word 'minor' and the suffix 'ity' meaning interlaid the smaller in number of two aggregates that together, constitute a whole<sup>2</sup>. Encyclopedia Britannica defines minorities as 'groups held together by ties of common descent, language or religious faith and feeling themselves in different in these respects from the majority of the inhabitants of a given political entity.'<sup>3</sup> According to Myron Weiner, "a people who do not share what they regard as the central symbol of the society invariably view themselves as a minority."<sup>4</sup> In other word minority is a group whose race, language or religion is different from the majority group. Sometime the term minority refer to those who are not Hindu, a conception which implies that somehow the dominant core of Indian identity is Hinduism. It is not religious groups who regard themselves as minorities rather, caste tribal, linguistic groups can be self defined minorities for any one of a number of reason: they have a distinctive group identity; they regarded themselves socially and economically subordinate to others; or they believe that they are suffer from discrimination, either from others in the society or from the state itself.

In India, there were many communities and religious faiths, chief among them being the Hindus, the Muslims, the Sikhs, the Anglo Indian, the Parsees, the Zoroastrians, the Buddhists and those belonging to tribal religions. Whereas the Hindus were in majority, the other communities were in minorities. These communities had their own religion, culture, language, traditions, customs, and usages; and the religion and social practices of some were in sharp contradiction to those of others, in certain cases at least. Indian constitution provides

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<sup>2</sup> J.A. Laponce, The Protection of Minorities, New York, 1961, p.3.

<sup>3</sup> William Benton, Encyclopediad Britannica , Vol. XV, Chicago,1968, p.542.

<sup>4</sup> Myron Weiner, The Indian Paradox, New Delhi, 1989, p.42

two types of minorities:

1. Linguistic minorities and

2. Religious minorities

Almost all states in India have one or more minority groups within their territories, groups distinguished by their own ethnic, linguistic or religious identity that differ from that of majority population. Presently, Indian Minorities are particularly concerned over with their security. The dispersed minorities want protection against the attacks from the majority. Every communal riot has contributed to the creation of a siege mentality and feeling of '*social outsider*' among the Muslims. "The Muslim's primary concern is still government

protection for physical security, and personal property.”<sup>5</sup>

Harmonious relations among minorities and between minorities and majorities as well as respect for each group’s identity, are a great asset to society. Tolerance, mutual understanding and pluralism should be nurtured and fostered through education, confidence building measures and dialogue

### **Constitutional Safeguards of Minorities in India**

There are only two specific Articles, Article 29 and 30, in the entire constitution of India, that explicitly stand guarantee to the protection of the interests of minorities in India.<sup>6</sup> Article 29 states; Any section of the citizens residing the territory of India or any part thereof, having a distinct language, script or culture of its own, shall have the right to conserve the same.<sup>7</sup> Article 30 states; the right of the minorities based on religion or language, to establish and administer educational institutions of their choice.<sup>8</sup> There are a large number of provisions under the constitution provide protection to the religious and linguistic minorities. These are following.....

- Article 14 states that “the state shall not deny to any person equality before the law or equal protection of the law within the territory of India.”
- Article 15 provides, “the state shall not discriminate against any citizen on the grounds only of the religion, race, caste, sex, and place of birth or any of them.”

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<sup>5</sup> Baxer, Malik, Kennedy and Oberst, Government and Politics in south Asia, Lahore, 1988, p.130

<sup>6</sup> Ajit Roy, Political Power in India, Calcutta, 1975, p.7.

<sup>7</sup> The Indian Constitution, Seventh Amendment Act, for the Original Clause (2) 1956.

<sup>8</sup> The Indian Constitution, Forth Amendment Act, for the Original Clause (2) 1956.

- Article 16 guarantees equality of opportunity in matter of public employment. The state is prohibited from showing any discrimination against any citizen on grounds of religion, race, sex, and descent, place of birth or residence.
- Article 25 declares that all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.
- Article 26 guarantees the freedom to manage religious affairs.
- Article 27 provides an additional protection to religious activity by exempting fund appropriate towards the promotion or maintenance of any particular religion from the payment of taxes.
- Article 28 prohibits religious instruction in any educational institution wholly maintained out of state funds whether such instruction is given by the state or any

other body.

- Article 29, section (1) guarantees the right of any section of the citizens residing in any part of the country having a distinct language, script or culture of its own, to conserve the same. in addition section (2) prohibits any discrimination based only on the religion, race, caste, language or any of them in the matter of admission to state or state aided educational institutions.
- Article 30, section (1) provides that, “all minorities, whether based on religion or language, shall have right to establish and administer educational institutions of their choice.”
- Article 30, section (2) the state shall not , in granting aid to educational institutions, discrimination against any educational institution on the ground that is under the management of a minority whether based on religion or language.
- no communal electorate (article 325)
- there is special provision for reservation of seats for scheduled caste and scheduled tribes(article 330.1 and 332.1)
- Article 350-A provides for the protection of the interests of linguistic minorities. it impose a duty on the state to endeavour to provide adequate facilities for instruction in the mother tongue at the primary stage of education to children belonging to linguistic minority.
- Article 350-B provides a special officer for linguistic minorities.

The provisions in these articles make clear that the intention of the constitution is neither tooppose nor to promote a rationalization of culture, but merely to maintain the neutrality and impartiality of the state in matters of religion. **It** is a matter of fact that neither founding fathers of the constitution nor the political elite have ever been serious about the economic and religious emancipation of the members of minorities groups. There is no justiciable article of the constitution ensures this. It should also be noted that the political elite among the minorities are concerned only with articulating the demands of the educated middle class segment.<sup>9</sup>

### **Issues & Challenges of communalism in India**

Communalism is very complex and multidimensional phenomenon, which seeks adherence to a particular community, asserting its own identity and attempts to protect its own interest. it is not only greatest security threats to India but also it is the enemy of progress, social change, democracy and federal nation state building on rational scientific lines and above all of human decency, compassion and fraternity. It disrupts the pattern of co existence in our

multi religious society. The most important threat the globe facing is also the rising of communalism. The western countries having religious singularity were free of this malady in the past. But the incidents happened in previous one decade show that they are also facing the threat of rising communal problem. Communalism as an ideology foster social grouping on the line of religion, caste or class, socio economic interests and provides identity. When the interests of particular community are threatened, it leads to communal conflicts.

In India the term communalism is used, at least in recent times refer to the hostile relationship that exist religious based communities. The genesis of communalism is not a very old. Researches in this area prove that communalism was not practiced in ancient period or in the medieval periods. There is no convincing historical documentation for any communal violence in the ancient or the medieval period. In the feudal period when the king was the supreme authority, there was no communalism commonly in practice. Communalism began to spring up only in the colonial and capitalist society and reached its heights in the democratic society. The malice of present communal practices was totally absent at that period. However, "Indian society was never homogenous throughout the history, it was highly diverse religiously, culturally, caste-wise and linguistically but there was hardly any tension between these groups. It all began with the establishment of British rule in India and so most of the scholars agree that communalism is a modern phenomenon and not a medieval

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<sup>9</sup>A.S.Narang, Indian Government and Politics, Geetanjali Publishing House, New Delhi, 2009, p.533 phenomenon."<sup>10</sup> In medieval period, there were some clashes between religious groups but they were simply wars caused by political quarrels or by the ambitions of the rulers. Hindus lived in security and peace under Muslim rulers and vice versa. Hindu princes appointed Muslims to high official posts and positions. Muslim princes were also equally generous to Hindus.<sup>11</sup> Presently, the root cause behind the major communal riot in India is The Ramjanma Bhoomi-Babri Masjid issue.

The religious pluralism and contradiction between the faiths tend to create communal identities, which in turn develops to a stage of communalism, when passing through the democratic process. Religion, when deliberately used as a tool for attaining political gain often nourished the growth of communalism. Adherence to a religion or attachment to a religion community is not communalism. On the other hand using a religious community against the other communities and nation is communalism. The communalist tries to divide the society on the basis of religion and they are not doing so for the religion, but to attain materialistic benefits in the name of religion. Asger Ali Engineer has analyzed the fight

between Shivaji and Aurangzeb was not religious in nature but a political struggle reflecting crisis of feudal system in that epoch.<sup>12</sup> Social activities of communalists appear on the basis of religion. Communal minded persons shall not be necessarily religious in nature.

Bipan Chandra observed as “communalism is the belief that because a group of people follow a particular religion, they have as a result, common social political and economic interests.”<sup>13</sup> Some scholars have defined communalism as a form of indifference. Contension, hatred or aggressive attitude to all the members of a religious community other than one’s own, based on a real or imaginary threat from an individual or a group of that community or an actual damage done to one’s personal interest or way of life or to those of one’s religious community.”<sup>14</sup> Prabha Dixit in her book, ‘Communalism, a Struggle for Political Power’ states that Communalism in India is neither the reaction to anti communalism nor an outgrowth of religious and cultural differences but it is a triangular power struggle of the elite.”<sup>15</sup>

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<sup>10</sup> Azgar Ali Engineer, On Sociology of Communalism, 2003, <https://www.countercurrents.org/comm-engineer190503.htm>

<sup>11</sup> J T Sunderland, Modern Review “Hindu-Muslim Riots”, Vol-43, Jan. 1928, p.1

<sup>12</sup> Asger Ali Engineer, Socio-Economic Basis of Communalism, in virendra Grover(ed.), Political System in India, Vol.7, New Delhi, 1989

<sup>13</sup> Bipan Chandra, Communalism in Modern India, Vikas publishing House Pvt.Ltd., New Delhi, 1984, p.1

<sup>14</sup> Zenab Banu, politics of Communalism, Popular Prakashan Bombay, 1989, p.10

According to Jawaharlal Nehru the greatest danger for this country is from communalism and not so much from external aggression, because when there is external aggression, the people of India tend to get united but when communalism is rampant the people get divided. Communalism is, thus, the most deadly enemy of the people of India. Anyone who loves India would hate communalism and anyone who hates India would love communalism. V.R Mehta had rightly pointed out that “Nationalism and Communalism have been the most important factors of the root of major crisis in twentieth century Indian politics. Nationalism has been the aspiration and Communalism the disease and both in their own way have shaped Indian Politics.”<sup>16</sup>

### **Why Hindu-Muslim Communalism Continued**

It would be pertinent to examine as to why Hindu-Muslim communalism continued to be persist in the country. The first and foremost element was the tendency of the Indian masses to keep themselves aloof from the secular-nationalistic politics of India. In the same way, in a fast changing world was the economic backwardness of Muslim masses. The anti Muslim policy adopted by the British after the uprising of 1857 reduced them to poverty and

bankruptcy. The Industrial Revolution deprived the Muslim artisans and craftsmen of their means of livelihood, and they were reduced to starvation level. Their position did not improve even today. The inevitable consequences of this was frustration and demoralization, and this on occasions burst forth in the form of violence and lawless activities, against those who were better placed in services, trade and industry.

Secondly, the factor which provokes communalism in India was religious orthodoxy and obscurantism both among the Hindus-Muslims. The parent organization of the R.S.S- the B.J.P also continued the anti-Muslim policy. According to D.C. Gupta<sup>17</sup>, M.S. Golwalkar, chief leader of RSS in his book, *A Bunch of Thoughts* said that Indian nationality was founded on Hinduism, and he called the Muslims, Christians, and Communists as “internal threats” who would qualify for Indian nationality only if they broke away from their ‘extra-territorial moorings’ and learnt to respect Hindu traditions.

Government’ Inertia: Hindu-Muslim communalism persisted in the country due to the failure of Union and States Government also to tackle the problem squarely and firmly. There is no

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<sup>15</sup> Ibid, p.18

<sup>16</sup> V.R.Mehta, *Ideology, Modernization and Politics in India*, New Delhi, 1983, p. 153

<sup>17</sup> C.C Gupta, *Indian Government And Politics*, Vikas Publishing House Pvt. Ltd. Delhi, 1972, pn.135  
serious attempt was made to examine the problem rationally and in all its respects, and whenever there was a flare-up the non ruling parties were made the scapegoat and were blamed for it. The government did not ban the communal parties, reportedly on the ground that it would be unconstitutional. Even if that were true and even if the amendment of the constitution in that regard were not feasible, the Government could have used the Preventive Detention Act.

Another reason behind the existence of communalism is today, Politician in the name of equal respect to all religions started using religion either to appease religious groups or mobilize people in the name of religion for creating vote banks. The selection of candidate for a particular constituency is generally made after considering the relative strength of different caste and communities residing in that constituency. Communal loyalties of the voters are covertly and sometime even overtly, appealed at the time of propaganda campaign. Unfortunately the law does not debar political parties to be organized on the basis of religion. Though, electoral law prohibits appealing in the name of religion.

**Conclusion:**

The rising trend of communalism and violence followed is major thread posed towards the integrity of the nation as well as feeling of insecurity among the minorities' communities. So, efficient measures are to be adopted against communalism and its spread in order to check crack on the social harmony and bondage. Taking into account the history of communal problems in the past, more non violent methods are inevitable in combating the communal tension which takes place in the new millennium. For combating this malady, it would be necessary to do honest and rigorous criticism of what is bad in one's community and acknowledge with generosity what is good in other community. Such an approach can build the bridges of understanding and mutual confidence. In addition, all communities should learn to separate religion from politics. The law and order machinery should be depoliticized. There should be strict code of conduct for the political leaders and political parties which ignited the communalism in India.